THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P. Nos. 11886 of 2004, 27509 of 2005

and

C.C. No. 1002 of 2005

Dated: 9th March, 2006

Between:

Sri Ramachandra Educational

Institution.

…..PETITIONER

AND

State of Andhra Pradesh, rep by its

Principal Secretary, School Education,

A.P., Hyderabad & 3 others.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P. Nos. 11886 of 2004 and 27509 of 2005

&

C.C. No. 1002 of 2005

ORDER:

The petitioner, namely *Ramachandra Educational Institution*, claims that in pursuance of the permission accorded by the

4th respondent, namely District Educational Officer, Khammam, for filling up of 17 vacancies, issued recruitment notification. While they were conducting interviews for selection, the petitioner states that on the direction of the 3rd respondent, namely District Collector, Khammam, issued in proceedings dated 15.06.2004, the 4th respondent sought to interfere with the selection process by issuing proceedings dated 25.06.2004. The petitioner states that the selected Teachers have also joined duties. The petitioner states that the respondents have no role whatsoever to interfere with the selection of Teachers. As there were adverse reports in the media as to the selection made by the petitioner, the petitioner filed
W.P. No. 11886 of 2004 *inter alia* praying for the following reliefs:

To issue an appropriate writ, order or direction, more particularly one in the nature of writ of certiorari by:

(i) Calling for records relating to and connected with proceedings unnumbered, dated 15.06.2004 and consequential proceedings in R.C. 11483/A4/03, dated 25.06.2004 as without jurisdiction, illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of Constitution of India and consequently declare that the selections held by the writ petitioner institution for 17 posts for Teachers as legal and valid in the interest of justice.

(ii) Declare that the action of the 3rd respondent in interfering with the recruitment procedure is without jurisdiction, illegal, arbitrary and unconstitutional and hold him accountable for the loss caused to the writ petitioner institution and consequently direct the 3rd respondent to pay a token compensation of Rs.1,00,000/- to writ petitioner institution from his private purse in the interest of justice and pass such other order or orders as are deem fit and proper in the circumstances of the case.

After admitting the writ petition, this Court by order dated 04.08.2004 passed in W.P.M.P. No. 15124 of 2004, suspended the impugned proceedings, and subsequently, by order dated 28.09.2004, passed in W.P.M.P. No. 18125 of 2004, directed the 4th respondent to process the selection file of all the 17 Teachers for approval to the competent authority in terms of Rule 12(8) of the Rules, issued in G.O. Ms. No. 1, dated 01.01.2004.

Alleging that the respondents have not complied with the interim orders dated 28.09.2004, passed by this Court in W.P.M.P. No. 18125 of 2004, the petitioner filed C.C. No. 1002 of 2005, for punishing the respondents.

While admitting the contempt case, the Court ordered notice to the respondents-contemnors, and they have received the notice, appeared before the Court in person on 20.10.2005.

While the above writ petition and contempt case are pending, the petitioner filed W.P. No. 27509 of 2005 *inter alia* praying for the following reliefs:

To issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus by:

(i) Calling for the records relating and connected with proceedings
Rc. No. 11483/A4/05, dated 14.11.2005 and set aside the same, holding it as wholly illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of Constitution of India

(ii) Declare the Government Memo No. 12080/CDSE/A2/04, dated 20.10.2004 imposing absolute ban on recruitment by the State Government, as wholly illegal, unconstitutional, without jurisdiction and violative of Articles 14, 16 and 21 of Constitution of India as well as in violation of

statutory Rules, and consequently direct the respondents to approve the appointments made by the writ petitioner institution and declare the appointments made by the writ petitioner institution for 17 posts as wholly legal and valid and direct the respondents to release the grant and all other incidental benefits attached to the aided posts from the date of their appointment, namely 14.06.2004.

On behalf of the respondents, in W.P. No. 11886 of 2004, the 3rd respondent filed counter-affidavit, and *inter alia* prayed to vacate the interim order passed by this Court pending disposal of the writ petition, complaining non-compliance of which the petitioner filed contempt case.

The 3rd respondent denied the allegations made against him by the petitioner in the writ affidavit. He contended that
Sri Ramachandra Arts and Science College, Kothagudem, which was previously under the management of the petitioner, was taken over by the Government vide orders issued in G.O. Ms. No. 568, Education Department, dated 27-11-1998, due to large scale misappropriation of funds, mismanagement, and complaints from five MLAs' of the district in that regard. He contended that the permission dated 23-7-2003 granted by the 4th respondent to fill up vacancies, numbering 17, was cancelled subsequently, by order dated 23-1-2004, based on the report of the Deputy Educational Officer, Kothagudem, who reported lapses in the selection. It is stated that the 2nd respondent, Commissioner and Director of School Education, addressed letter dated 8-10-2002 to him stating that the nominee of the 4th respondent has to play a crucial role in the matter of selection, i.e. preparing the question paper, conducting the exams and selection of the candidates, and he further informed that the 4th respondent has to submit a panel of names. Even before the 3rd respondent selected his nominee to be member of the Selection Committee, the 4th respondent nominated the Deputy Educational Officer, Kothagudem, as his nominee to the Selection Committee, and as there were adverse reports in the news press with regard to selection of candidates, the 2nd respondent directed him to issue necessary orders to prevent the illegalities. Therefore, he addressed letter dated 9-6-2004 to 4th respondent and asked the Revenue Divisional Officer, Kothagudem, who in turn had sent report as to the selections, and based on the said report, he had issued proceedings dated 15.06.2004, in pursuance of which, the 4th respondent issued proceedings dated 25.06.2004, stopping the selection.

Heard the learned counsel for the petitioner and the learned Government Pleader for School Education.

Though the petitioner contends that the 3rd respondent had illegally interfered with the selection process, the fact remains, which in fact, is evident from the counter filed by the 3rd respondent that there were adverse reports published in the news papers with regard to filling up of 17 posts, that the petitioner had proceeded to make selections even before the 3rd respondent selected his nominee for being member of the Selection Committee, and in view of adverse reports and as the petitioner was alleged to be making the selections illegally, the 2nd respondent directed the 3rd respondent to enquire into the matter, and based on such directions, the 3rd

respondent directed the 4th respondent, who in turn requested the Revenue Divisional Officer, Kothagudem, to enquire into the matter. The Revenue Divisional Officer, Kothagudem, having enquired into the matter, sent detailed report, and based on the said report, the 3rd respondent issued proceedings dated 15.06.2004, in pursuance of which, the 4th respondent issued proceedings dated 25.06.2004, to stop the selection. The interference of 3rd respondent in the matter of selection, was not voluntary, but on the directions of the
2nd respondent, which in fact, were issued to curb the illegalities, and as such, the interference sought to be made by the
3rd respondent by issuing proceedings dated 15.06.2004, in pursuance of which the 4th respondent issued consequential proceedings dated 25.06.2004, cannot be said to be illegal. As the interference of the 3rd respondent is declared as legal, no direction can be given to the 3rd respondent to pay compensation to the petitioner.

As stated above, while W.P. No. 11886 of 2004, is pending before this Court, the petitioner filed W.P. No. 27509 of 2005 assailing the proceedings issued by the 4th respondent in
Rc. No. 11483/A4/05, dated 14.11.2005, returning the proposals for approval of selections on the ground that there is a general ban on recruitment and requested the petitioner to resubmit the proposals after the ban is lifted.

During the course of hearing of the writ petition, the learned Government Pleader for School Education produced a copy of the G.O. issued by the Government in G.O. Ms. No. 62, dated
31-1-2006, and submitted that the Government in the said G.O. directed the Director of School Education, to issue necessary instructions to the competent authorities to ensure the following issues before approving the selections. They are:

i. To verify that the selections made by the managements are in accordance with the rules issued in G.O. 1st read above.

ii. The selections of all the candidates were strictly made prior to the date of imposing of ban in the Memo 2nd cited.

Pursuant to the above G.O., it is submitted by the learned Government Pleader for School Education, that proposals in respect of the selections made by the petitioner are pending before the Regional Joint Director, and prayed that the Regional Joint Director, be directed to consider the proposals in relation to the selections made by the petitioner, which were sent by the respondents, in the light of the orders issued by the Government in G.O. Ms. 62, dated 31-1-2006.

In the result, W.P. No. 11886 of 2004 is dismissed, and in view of dismissal of W.P. No. 11886 of 2004, nothing survives for consideration in C.C. No. 1002 of 2005, and the same is accordingly dismissed.

However, W.P. No. 27509 of 2005, is disposed of with the following

directions:

Even though the Regional Joint Director, is not a party to the writ petitioners, in view of the statement made by the learned Government Pleader for School Education that the proposals in respect of the selections made by the petitioner are pending before the Regional Joint Director, the Regional Joint Director, is directed to consider and dispose of the proposals sent by the respondents in relation to the selections made by the petitioner, in the light of the orders issued by the Government in G.O. Ms. 62, dated
31-1-2006. No costs.

_____

(N.V. RAMANA, J.)

Date: 9th March, 2006.

GRK